

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2009-0270-LII-E TCEQ ID: RN103507133 CASE NO.: 37199**  
**RESPONDENT NAME: ANDRE C. CORMIER**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input checked="" type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

**SITE WHERE VIOLATION(S) OCCURRED:** 5305 Murrieta Way, Keller, Tarrant County

**TYPE OF OPERATION:** landscape business

**SMALL BUSINESS:**  Yes  No

**OTHER SIGNIFICANT MATTERS:** One complaint was received, alleging that the Respondent installed an irrigation system at 5305 Murrieta Way, Keller, Tarrant County, Texas and, subsequently, there was backflow of dirt and debris into a bathroom. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** The complainant has not indicated a desire to protest this action or speak at Agenda. No one other than the ED and the Respondent expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired November 2, 2009. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Mr. Steven M. Fishburn, Litigation Division, MC 175, (512) 239-0635  
 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

**TCEQ Enforcement Coordinator:** Mr. Keith Frank, Water Enforcement Section, MC 128, (512) 239-1203

**TCEQ Regional Contact:** Mr. Sid Slocum, DFW Regional Office, MC R-4, (817)588-5901

**Respondent:** Mr. Andre C. Cormier, 512 Balsam Drive, Euless, Texas 76039

**Respondent's Attorney:** Not represented by counsel on this enforcement matter.

<b>VIOLATION SUMMARY CHART:</b>		
<b>VIOLATION INFORMATION</b>	<b>PENALTY CONSIDERATIONS</b>	<b>CORRECTIVE ACTIONS TAKEN/REQUIRED</b>
<p><b>Type of Investigation:</b></p> <p><input checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> August 18, 2008</p> <p><b>Date of Investigation Relating to this Case:</b> August 20, 2008</p> <p><b>Date of NOE Relating to this Case:</b> January 13, 2009</p> <p><b>Background Facts:</b> The EDPRP was filed June 8, 2009, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned. The EDFARP was filed August 13, 2009, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned. The Respondent failed to answer either the EDPRP or the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p><b>Current Compliance Status:</b> The Respondent has not yet submitted documentation to certify compliance with the technical requirements.</p> <p><b>LII:</b> Failed to comply with local requirements, ordinances, and regulations designed to protect the public water supply [30 TEX. ADMIN. CODE 344.70].<sup>1</sup></p>	<p><b>Total Assessed:</b> \$341</p> <p><b>Total Deferred:</b> \$0</p> <p style="margin-left: 20px;"><input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Due to General Revenue:</b> \$341</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p><b>Site Compliance History Classification</b> N/A</p> <p><b>Person Compliance History Classification</b> N/A</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>1. Immediately, cease selling, designing, consulting, installing, maintaining, altering, repairing or servicing landscape irrigation systems unless he will ensure all local and state regulations are followed including any inspections and permits which must be obtained.</li> <li>2. Within 15 days, submit written certification demonstrating compliance.</li> </ol>

<sup>1</sup> [30 TEX. ADMIN CODE § 344.70 is now found at 30 TEX. ADMIN CODE § 344.24(a) adopted to be effective January 1, 2009, 33 TEX. REG. 5713.]



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

<b>DATES</b>	Assigned	23-Feb-2009		
	PCW	22-May-2009	Screening	25-Feb-2009
			EPA Due	

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Andre C. Cormier		
Reg. Ent. Ref. No.	RN103507133		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	37199	No. of Violations	1
Docket No.	2009-0270-LII-E	Order Type	1660
Media Program(s)	Irrigators	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Keith Frank
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$2,500

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$250</b>
<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>		
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>		
<b>Compliance History</b>	0.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b> \$0
Notes	No adjustment for compliance history.	
<b>Culpability</b>	No 0.0% Enhancement	<b>Subtotal 4</b> \$0
Notes	The Respondent does not meet the culpability criteria.	
<b>Good Faith Effort to Comply Total Adjustments</b>		<b>Subtotal 5</b> \$0
<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b> \$0
Total EB Amounts	\$91	<small>*Capped at the Total EB \$ Amount</small>
Approx. Cost of Compliance	\$85	
<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$250</b>
<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	36.4%	<b>Adjustment</b> \$91
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>		
Notes	Recommended enhancement to capture the avoided cost of compliance associated with the violation.	
	<b>Final Penalty Amount</b>	<b>\$341</b>
<b>STATUTORY LIMIT ADJUSTMENT</b>		<b>Final Assessed Penalty</b> \$341
<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b> \$0
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>		
Notes	Deferral not offered for non-expedited settlement.	
<b>PAYABLE PENALTY</b>		<b>\$341</b>

<b>Screening Date</b>	25-Feb-2009	<b>Docket No.</b>	2009-0270-LII-E	<b>PCW</b>
<b>Respondent</b>	Andre C. Cormier	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b>	37199	<i>PCW Revision October 30, 2008</i>		
<b>Reg. Ent. Reference No.</b>	RN103507133			
<b>Media [Statute]</b>	Irrigators			
<b>Enf. Coordinator</b>	Keith Frank			

### Compliance History Worksheet

**>> Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%

*Please Enter Yes or No.*

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 0%

**>> Repeat Violator (Subtotal 3)**

N/A	<b>Adjustment Percentage (Subtotal 3)</b> <span style="border: 1px solid black; padding: 2px;">0%</span>
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**>> Compliance History Person Classification (Subtotal 7)**

N/A	<b>Adjustment Percentage (Subtotal 7)</b> <span style="border: 1px solid black; padding: 2px;">0%</span>
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**>> Compliance History Summary**

<b>Compliance History Notes</b>	No adjustment for compliance history.
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**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 0%

<b>Screening Date</b>	25-Feb-2009	<b>Docket No.</b>	2009-0270-LII-E	<b>PCW</b>
<b>Respondent</b>	Andre C. Cormier	Policy Revision 2 (September 2002)		
<b>Case ID No.</b>	37199	PCW Revision October 30, 2008		
<b>Reg. Ent. Reference No.</b>	RN103507133			
<b>Media [Statute]</b>	Irrigators			
<b>Enf. Coordinator</b>	Keith Frank			
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 344.24(a) [previously 30 Tex. Admin. Code § 344.70]			
<b>Violation Description</b>	Failed to comply with local requirements, ordinances and regulations designed to protect the public water supply. Specifically, the Respondent installed an irrigation system at the Site without obtaining a permit and backflow prevention device inspection as required by the City of Keller.			
<b>Base Penalty</b>				\$2,500

**>> Environmental, Property and Human Health Matrix**

OR	Harm				Percent
	Release	Major	Moderate	Minor	
	Actual				
Potential				0%	

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
		x			10%

Matrix Notes: 100% of the rule requirement not met.

Adjustment: \$2,250

\$250

**Violation Events**

Number of Violation Events: 1      190 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty: \$250

One single event is recommended based on documentation of the violation during a record review conducted on August 20, 2008.

**Good Faith Efforts to Comply**      0.0% Reduction      \$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes: The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal: \$250

**Economic Benefit (EB) for this violation**      **Statutory Limit Test**

Estimated EB Amount: \$91      Violation Final Penalty Total: \$341

This violation Final Assessed Penalty (adjusted for limits): \$341

## Economic Benefit Worksheet

**Respondent** Andre C. Cormier  
**Case ID No.** 37199  
**Reg. Ent. Reference No.** RN103507133  
**Media** Irrigators  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$85	20-Aug-2008	25-Feb-2009	1.44	\$6	\$85	\$91
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to obtain a permit to install an irrigation system in Keller, Tarrant County, Texas and to have the backflow prevention device inspected. Date required is the record review date and the Final date is the screening date.

Approx. Cost of Compliance

\$85

**TOTAL**

\$91

# Compliance History Report

Customer/Respondent/Owner-Operator: CN602027096 CORMIER, ANDRE C Classification: Rating:  
Regulated Entity: RN103507133 CORMIER, ANDRE C Classification: Site Rating:  
ID Number(s):  
Location: 512 BALSAM DR, EULESS, TX, 76039  
TCEQ Region: REGION 04 - DFW METROPLEX  
Date Compliance History Prepared: February 23, 2009  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: February 23, 2004 to February 23, 2009  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Keith Frank Phone: 239 - 1203

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A
- 6.

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
  - B. Any criminal convictions of the state of Texas and the federal government.  
N/A
  - C. Chronic excessive emissions events.  
N/A
  - D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
N/A
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)  
N/A
  - F. Environmental audits.  
N/A
  - G. Type of environmental management systems (EMSs).  
N/A
  - H. Voluntary on-site compliance assessment dates.  
N/A
  - I. Participation in a voluntary pollution reduction program.  
N/A
  - J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
ANDRE C. CORMIER,  
RN103507133**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER DOCKET NO. 2009-0270-LII-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's First Amended Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 37, TEX. OCC. CODE ch. 1903, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Andre C. Cormier ("Mr. Cormier").

The Commission makes the following Findings of Fact and Conclusions of Law:

### **FINDINGS OF FACT**

1. Mr. Cormier owns and operates a landscape business located at 512 Balsam Drive, Euless, Tarrant County, Texas and installed an irrigation system at 5305 Murrieta Way, Keller, Tarrant County, Texas (the "Site").
2. Mr. Cormier holds and maintains landscape irrigator license no. 9027, issued by the TCEQ on December 8, 2006, and sells, designs, installs, maintains, alters, repairs, and/or services landscape irrigation systems. Therefore, Mr. Cormier is subject to TCEQ jurisdiction pursuant to TEX. OCC. CODE ch. 1903 and TEX. WATER CODE chs. 7 and 37.
3. During a record review on August 20, 2008, a TCEQ Central Office investigator documented that Mr. Cormier failed to comply with local requirements, ordinances, and regulations designed to protect the public water supply. Specifically, Mr. Cormier installed an irrigation system at the Site without obtaining a permit and backflow prevention device inspection as required by the city of Keller, Texas.

4. Mr. Cormier received notice of the violation on or about January 18, 2009.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Andre C. Cormier" (the "EDPRP") in the TCEQ Chief Clerk's office on June 8, 2009.
6. By letter dated June 8, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Cormier with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed". The first class mail has not been returned, indicating that Mr. Cormier received notice of the EDPRP.
7. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Andre C. Cormier" (the "EDFARP") in the TCEQ Chief Clerk's office on August 13, 2009.
8. By letter dated August 13, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Cormier with notice of the EDFARP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed". The first class mail has not been returned, indicating that Mr. Cormier received notice of the EDFARP.
9. More than 20 days have elapsed since Mr. Cormier received notice of both the EDPRP and the EDFARP, provided by the Executive Director. Mr. Cormier failed to file an answer to either the EDPRP or the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.

### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Cormier is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 37, TEX. OCC. CODE ch. 1903, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Mr. Cormier failed to comply with local requirements, ordinances, and regulations designed to protect the public water supply, in violation of 30 TEX. ADMIN. CODE § 344.70.<sup>1</sup>

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<sup>1</sup> 30 TEX. ADMIN. CODE § 344.70 is now found at 30 TEX. ADMIN. CODE § 344.24(a) adopted to be effective January 1, 2009, 33 TEX. REG. 5713.

3. As evidenced by Finding of Fact Nos. 5, 6, 7, and 8, the Executive Director timely served Mr. Cormier with proper notice of the EDPRP and the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
4. As evidenced by Finding of Fact No. 9, Mr. Cormier failed to file a timely answer to either the EDPRP or the EDFARP as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. Cormier and assess the penalty recommended by the Executive Director.
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Cormier for violations of the Texas Water Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of three hundred forty-one dollars (\$341.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Mr. Cormier is assessed an administrative penalty in the amount of three hundred forty-one dollars (\$341.00) for violations of state statutes and TCEQ rules. The payment of this administrative penalty and Mr. Cormier's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality". The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Andre C. Cormier; Docket No. 2009-0270-LII-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. Mr. Cormier shall undertake the following technical requirements:
- a. Immediately upon the effective date of this Order, Mr. Cormier shall cease selling, designing, consulting, installing, maintaining, altering, repairing or servicing landscape irrigation systems unless he will ensure all local and state regulations are followed including any inspections and permits which must be obtained; and
  - b. Within 15 days after the effective date of this Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Mr. Sid Slocum  
Water Section Manager, MC R-4  
Texas Commission on Environmental Quality  
Dallas/Fort Worth Regional Office  
2309 Gravel Dr.

Fort Worth, TX 76118-

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Mr. Cormier. Mr. Cormier is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
5. If Mr. Cormier fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Cormier's failure to comply is not a violation of this Order. Mr. Cormier shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Cormier shall notify the Executive Director within seven days after Mr. Cormier becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Cormier shall be made in writing to the Executive Director. Extensions are not effective until Mr. Cormier receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Cormier if the Executive Director determines that Mr. Cormier has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

André C. Cormier  
Docket No. 2009-0270-LII-E  
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## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF STEVEN M. FISHBURN**

STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

“My name is Steven M. Fishburn. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Andre C. Cormier” (the “EDPRP”) was filed with the Office of the Chief Clerk on June 8, 2009.

I sent the EDPRP to Mr. Cormier at his last known address on June 8, 2009 via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed”. The first class mail has not been returned, indicating the respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Andre C. Cormier” (the “EDFARP”) was filed with the Office of the Chief Clerk on August 13, 2009.

I sent the EDFARP to Mr. Cormier at his last known address on August 13, 2009 via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as “unclaimed”. The first class mail has not been returned, indicating the respondent received notice of the EDFARP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

More than 20 days have elapsed since Mr. Cormier received notice of the EDPRP and the EDFARP. Mr. Cormier failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference”.



\_\_\_\_\_  
Steven M. Fishburn  
Attorney  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Steven M. Fishburn, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 14<sup>th</sup> day of September, A.D., 2009.

Notary Stamp

*Dawn Elizabeth Higgins*  
Notary Signature

